**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**
P.O. Box 944246
SACRAMENTO, CA 94244-2460
(919) 653-7772
Website: www.fire.ca.gov

August 25, 2014


Keith Gilless, Chairman
State Board of Forestry and Fire Protection
P. O. Box 944246
Sacramento, CA 94244-2460


Re:    Forest Fire Prevention Pilot Project Exemption, 2014


Dear Chairman Gilless:

The California Department of Forestry and Fire Protection (CAL FIRE) has reviewed the proposed regulation language included in the 45-day notice for the *Forest Fire Prevention Pilot Project Exemption, 2014*, published July 11, 2014. CAL FIRE supports the proposed pilot project regulations but recognizes the included fuels treatment requirements may be difficult to implement in some areas of the State. Absent sufficient analysis to warrant a change in fuels treatment requirements, CAL FIRE endorses the current standard proposed by the Board of Forestry and Fire Protection (Board). Additionally, please consider the following specific comments related to the proposed regulations:
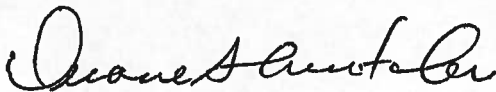

1.   Page 2, line 7 includes stocking standards for commercial thinning language of 14 CCR §§ 913.3 [933.3, 953.3] (a) (1) (A) regarding dominant and codominant canopy over 14 inches, which is similar to PRC § 4584 (j) (5) for the Forest Fire Prevention Exemption. However, this language appears to contradict the statute for the Pilot Project (PRC § 4584 (j) (11) (C) (ii)) that refers to overstory canopy closure for trees greater than 12 inches in diameter. If the standards under the proposed regulations are adopted by the Board in conflict with those found in statute, it creates issues relative to clarity and enforcement.

2.   PRC § 4584 (j) (11) (B), page 4, line1 includes the canopy closure regulations adopted by the board on June 10, 2004 that would allow for the reduction of canopy down to 40 percent for east side pine type; however, the statute language of the Pilot Project under PRC § 4584 (j) (11) (C) (ii) refers to a minimum canopy closure of 50 percent. CAL FIRE will enforce the 50% standard, which may create confusion during enforcement in the field, but will not result in a violation of the canopy closure regulations adopted by the Board June 10, 2004.

3.   Page 3, line 13 provides the content requirements of the Confidential Archaeological Letter with the Notice of Exemption as per 14 CCR §§ 929.1 [949.1, 969.1] (c) (2), (7), (8), (9), (10), and (11). Considering recent proposed Board regulations amending 14 CCR § 895.1 regarding the definition of the Confidential Archaeological Letter, it is suggested that the

code sections referencing 14 CCR §§ 929.1 [949.1, 969.1] (c) (2), (7), (8), (9), (10), and (11) be removed for clarity and consistency with other sections of the rules.

4. The *Forest Fire Prevention Pilot Project Exemption* will create a new exemption as 14 CCR § 1038 (j). Currently, 14 CCR § 1038 (e) states "Operations pursuant to an exemption under subsection (c), (d) and (i) may not commence for five working days from the date of the Director's receipt . . .". Accordingly, CAL FIRE recommends 14 CCR § 1038 (e) be revised to state "Operations pursuant to an exemption under subsection (c), (d), (i) and (j) may not commence for five working days from the date of the Director's receipt . . .".

5. Currently 14 CCR § 1038.2 (f) states "In addition to (a) through (c) above, the following shall be included for exemptions conducted under 14 CCR § 1038(i) . . .". CAL FIRE recommends that this be revised to state "In addition to (a) through (c) above, the following shall be included for exemptions conducted under 14 CCR §§ 1038 (i) and (j) . . .".

Thank you for providing the Department an opportunity to comment on this important rule package. A representative from CAL FIRE will be at the hearing should any questions arise related to this proposed change to the regulations.

Sincerely;

Duane Shintaku, Deputy Director
California Department of Forestry and Fire Protection